

REMARKS

Claims 1-25 are currently pending in the application. By this response, no claims are amended, added, or canceled. Reconsideration of the rejected claims in view of the following remarks is respectfully requested.

35 U.S.C. §101 Rejection

Claims 1-25 were rejected under 35 U.S.C. §101 for being directed to non-statutory subject matter. These rejections are respectfully traversed.

The Examiner asserts that claims 1, 7, 18, and 25 are not statutory in view of MPEP §2106 IV.B.2(b) because the claims merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application.

Applicants note that the current Edition and Revision of the MPEP (*i.e.*, Eighth Edition, Fifth Revision, August 2006) does not contain the section and language cited by the Examiner. In fact, it appears that the Examiner is citing language from a previous Edition and Revision (*i.e.*, Eighth Edition, Third Revision, August 2005). However, the current Edition and Revision clearly states that "USPTO personnel are to rely on these Guidelines in the event of any inconsistent treatment of issues between these Guidelines and any earlier provided guidance from the USPTO" (MPEP §2106.I). Because the Examiner is relying upon guidance that is not provided in the current Edition and Revision, it appears that the Examiner is applying an incorrect standard for determining patentability, and the rejection of claims 1-25 should be withdrawn at least for this reason alone.

In any event, Applicants submit that claims 1-25 are directed to statutory subject matter for the following reasons.

Independent claims 1 and 7 recite *inter alia* a method for optimizing performance of a database comprising sorting and categorizing a first set of columns and marking a second set of columns. Thus, the claims fall within the enumerated statutory category of a process. Moreover, the claimed invention is directed to something more than a judicial exception (*i.e.*, an abstract idea, natural phenomenon, or law of nature). That is, optimizing performance of a database by sorting and categorizing a first set of columns and marking a second set of columns is more than an abstract idea, natural phenomenon, or law of nature. Therefore, claims 1 and 7 are directed to statutory subject matter because they fall within an enumerated statutory category and do not cover a recognized judicial exception.

Even assuming *arguendo* that claims 1 and 7 cover a judicial exception (*i.e.*, an abstract idea, natural phenomenon, or law of nature), which Applicants do not concede, Applicants submit that the claimed invention as a whole is directed to statutory subject matter at least for the following reasons. MPEP §2106 provides the following guidance for analyzing such situations:

The conclusion that a particular claim includes a 35 U.S.C. 101 judicial exception does not end the inquiry because the practical application of a judicial exception may qualify for patent protection. "It is now commonplace that an application of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection." *Diehr*, 450 U.S. at 187, 209 USPQ at 8

...

For claims including such excluded subject matter to be eligible for patent protection, the claim must be for a practical application of the abstract idea, law of nature, or natural phenomenon.

...

A claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it:

(A) “transforms” an article or physical object to a different state or thing; or

(B) otherwise produces a useful, concrete and tangible result...

Thus, a claim that covers a judicial exception (*i.e.*, an abstract idea, natural phenomenon, or law of nature) may still be directed to statutory subject matter if it either: (A) transforms an article or physical object, or (B) produces a useful, concrete, and tangible result.

MPEP §2106 IV.B explicitly states that “[t]he burden is on the USPTO to set forth a *prima facie* case of unpatentability. Therefore if the examiner determines that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, the examiner must provide an explanation.” The Examiner only asserts that claims 1, 7, 18, and 25 do not provide a tangible result (Office Action, page 5).

However, by only asserting that the claimed invention does not provide a tangible result, the Examiner has failed to explain how the claimed invention (i) covers a judicial exception, (ii) does not transform an article or physical object, and (iii) does not produce a useful, concrete, and tangible result. Therefore, the Examiner has failed to properly establish a *prima facie* case of unpatentability, and the rejection should be withdrawn for at least this reason.

Even assuming *arguendo* that the Examiner has properly established a *prima facie* of unpatentability, which Applicants do not concede, Applicants submit that the claimed invention is directed to statutory subject matter because it does produce a useful, tangible and concrete result as described below.

Useful Result

The guidance for the "useful result" prong of the §101 inquiry is provided by the following passage of the MPEP:

For an invention to be "useful" it must satisfy the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP Sec. 2107... (MPEP §2106 IV.C.2.(2).a).

Furthermore, the Examiner's attention is directed to MPEP §2107, which provides the following examination guidelines for the utility requirement

Office personnel are to adhere to the following procedures when reviewing patent applications for compliance with the "useful invention" ("utility") requirement of 35 U.S.C. 101 and 112, first paragraph.

(B) Review the claims and the supporting written description to determine if the applicant has asserted for the claimed invention any specific and substantial utility that is credible:

(1) If the applicant has asserted that the claimed invention is useful for any particular practical purpose (i.e., it has a "specific and substantial utility") and the assertion would be considered credible by a person of ordinary skill in the art, do not impose a rejection based on lack of utility.

Applicants submit that the instant claimed invention complies with the above-noted provisions of MPEP §2107 because its utility is asserted in at least pages 5 and 11 of the Specification. More particularly, it is asserted on page 5 of the Specification that "the method and apparatus of the invention is designed to increase efficiencies in processing time, bandwidth, or memory management of non-RDBMs by reducing the view index size based on parameters". Furthermore, it is asserted on page 11 of the Specification that "[t]he invention may be used in non-relational databases in order to improve overall performance of the database management system". Accordingly, the claimed invention provides a useful result in terms of the §101 analysis.

Tangible Result

The guidance for the "tangible result" prong of the §101 inquiry is provided by the following passage of the MPEP:

The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a Sec. 101 judicial exception, in that the process claim must set forth a practical application of that Sec. 101 judicial exception to produce a real-world result. ... "[A]n application of a law of nature or mathematical formula to a . . . process may well be deserving of patent protection." *Diehr*, 450 U.S. at 187, 209 USPQ at 8 (emphasis added); see also *Corning*, 56 U.S. (15 How.) at 268, 14 L.Ed. 683 ("It is for the discovery or invention of some practical method or means of producing a beneficial result or effect, that a patent is granted ..."). In other words, the opposite meaning of "tangible" is "abstract." (MPEP §2106 IV.C.2.(2).b)

Applicants submit that independent claims 1 and 7, as whole, produce a tangible result. That is, the claims recite a method for optimizing the performance of a database. The method comprises, *inter alia*, sorting and categorizing a first set of columns and marking a second set of columns. Thus, the claimed invention is not abstract and clearly recites more than a 35 U.S.C. 101 judicial exception. Accordingly, the claimed invention provides a tangible result in terms of the §101 analysis.

Concrete Result

The guidance for the "concrete result" prong of the §101 inquiry is provided by the following passage of the MPEP:

Another consideration is whether the invention produces a "concrete" result. Usually, this question arises when a result cannot be assured. In other words, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. In re Swartz, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is "irreproducible" claim should be rejected under section 101). The opposite of "concrete" is unrepeatable or unpredictable. (MPEP §2106 IV.C.2.(2).c)

Applicants submit that independent claims 1 and 7 each, as whole, produce a concrete result. As noted above, the present invention provides method for optimizing the performance of a database that is repeatable for the same input variables. While the solution may vary as input variables change, the results of the method are concrete. Therefore, Applicants submit the processes recited in the claims produce a result that is

substantially repeatable. Accordingly, the claimed invention provides a concrete result in terms of the §101 analysis.

Independent claim 18 is directed to a system for optimizing database performance. The system comprises *inter alia* components to sort and categorize a first set of columns and mark a second set of columns. Therefore, claim 18 is directed to statutory subject matter because it falls within the enumerated statutory category of a machine and does not cover a recognized judicial exception. Moreover, claim 18 produces a useful, tangible, and concrete result for the same reasons discussed above with respect to claims 1 and 7.

Claim 25 recites a computer program product comprising a computer usable medium having readable program code embodied in the medium, the computer program product includes a first computer program code to sort and categorize a first set of columns within a view of a database.... In discussing computer-related subject matter, MPEP §2106 provides the following guidance:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

...

[A] claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Based upon the above-noted passages, Applicants submit that claim 25 is directed to statutory subject matter because claim 25 recites a computer-readable medium encoded with a computer program (e.g., computer program product comprising a computer usable medium having readable program code embodied in the medium). Moreover, claim 25 produces a useful, tangible, and concrete result for the same reasons discussed above with respect to claims 1 and 7.

For at least the above-described reasons, Applicants submit that claims 1-25 are directed to statutory subject matter. Accordingly, Applicants respectfully request that the rejection over claims 1-25 under 35 U.S.C. §101 be withdrawn.

35 U.S.C. §103 Rejection

Claims 1-6, 18 and 20-25 were rejected under 35 U.S.C. §103(a) for being unpatentable over U. S. Patent No. 5,752,025 issued to Shakib *et al.* ("Shakib") in view of U. S. Patent Application Publication No. 2002/0120617 issued to Yoshiyama *et al.* ("Yoshiyama"). Claims 7, 10-13, and 17 were rejected under 35 U.S.C. §103(a) for being unpatentable over Shakib in view of Yoshiyama and further in view of U. S. Patent No. 6,065,011 issued to Bulusu *et al.* ("Bulusu"). Claim 19 was rejected under 35 U.S.C. §103(a) for being unpatentable over Shakib in view of Yoshiyama and further in view of U. S. Patent Application Publication No. 2003/0088739 issued to Wilkes *et al.* ("Wilkes"). Claims 8-9 and 14-16 were rejected under 35 U.S.C. §103(a) for being unpatentable over Shakib in view of Yoshiyama and Bulusu, and further in view of Wilkes. These rejections are respectfully traversed.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2142.

The Examiner asserts that the applied prior art teaches or suggest all of the features of the claimed invention. Applicants respectfully disagree and submit that the Examiner has failed to establish a *prima facie* case of obviousness.

Claims 1-6, 18 and 20-25 in view of Shakib and Yosiyama

The present invention generally relates to optimization of database performance, and more particularly, optimization of performance in non-relational databases. In non-limiting exemplary implementations of the invention, a server provides database access and management control to a non-relational database. The server accepts database inquiries from one or more clients and accesses the database accordingly and returns the results of the inquiry. By reducing the view index size, implementations of the invention may increase efficiencies in processing time, bandwidth and/or memory management.

More specifically, in non-limiting implementations of the invention, at least one view of the database is created by defining columns. The view index size is kept at a level that optimizes database performance by categorizing and sorting only a first

subset of the columns contained within the corresponding view. The remaining columns of the view constitute a second subset and are marked as having been indexed, but are not actually used to build the index. The second subset of columns may be visible as collapsed data to a client for issuing a query, since all columns are marked as indexed. When a query is performed on at least one column of the second subset, a sort and categorization of the at least one column is performed. This results in some data being indexed at run time. However, since the second subset of columns are not initially indexed, the total number of indexed records is substantially less, the view index size is reduced, and overall performance is increased.

Independent claim 1 recites, in part,

...sorting and categorizing a first set of columns within a view of the database; and
marking a second set of columns within the view as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns, the second set of columns including all columns exclusive of the first set of columns.

Independent claim 18 recites, in part,

...a component to sort and categorize a first set of columns within a view of the database;
a component to mark a second set of columns within the view, wherein the second set of columns comprises all columns within the view that are not in the first set of columns, and wherein the mark indicates that sorting and categorizing has been performed on the second set of columns without actually having performed the sorting and the categorizing...

Independent claim 25 recites, in part,

...a first computer program code to sort and categorize a first set of columns within a view of a database;
a second computer program code to mark a second set of columns within the view, wherein the second set of columns comprises all columns within the view that are not in the first set of columns, and wherein the mark indicates that sorting and categorizing has been performed on the second set of columns without actually having performed the sorting and the categorizing...

These features are not shown or suggested by the applied references.

The Examiner asserts that Shakib discloses sorting and categorizing a first set of columns within a view of a database. The Examiner admits, and Applicants agree, that Shakib does not disclose marking a second set of columns within the view as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns, the second set of columns including all columns exclusive of the first set of columns. The Examiner is of the opinion that Yoshiyama teaches these features at paragraph 35, and that it would have been obvious to modify Shakib by adding these features.

Applicants respectfully disagree and submit that no proper combination of the applied references teaches or suggests all of the features of the claimed invention. More specifically, Applicants note that none of the applied references teaches or suggests marking a second set of columns within a view of a database as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns.

Shakib discloses a method and system for creating and displaying a table of categorized data. The table, called a categorization table, is analogous to the well-known computer directory tree structure with expandable and collapsible headings (FIG. 3). More specifically, a plurality of data records 10 are accessed through a sorted index 12. A header table 14 references the plurality of data records 10 through the sorted index 12 (FIG. 1). The sorted index 12 contains a separate entry corresponding to each data record contained in the plurality of data records 10. The header table is traversed to create and display a categorization table on a display means (FIG. 3). Shakib does not, however, teach or suggest marking a second set of columns within a view of a database as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns. The Examiner admits the same in the outstanding Office Action.

Yoshiyama does not cure the above-noted deficiencies of Shakib. Yoshiyama discloses a relational database retrieval method that is based upon a comparison of costs of different retrieval techniques. The method is useful for irregular retrievals where an already generated index cannot be used in many cases. In the method, a structured query language (SQL) statement (i.e., query) is parsed (see paragraphs 0046 and 0058; and FIG. 5). Based upon the parsing, a cost calculation is performed to determine the fastest way to access the database (para. 0059). The costs of three retrieval techniques are calculated: (i) access made by entire scanning on all of the data in the database; (ii) access made by using an already existing index or dynamic index; and (iii) access made by creating and using a dynamic index (para. 0063). The

technique that is deemed the fastest is used to actually access the database and retrieve the data in response to the query (para. 0063-0066).

However, Yoshiyama does not explicitly disclose a view of a database. Moreover, Yoshiyama does not teach or suggest marking a second set of columns within a view of a database as if the second set were already sorted and categorized prior to actually sorting and categorizing the second set of columns. Instead, Yoshiyama teaches that non-indexed data may be accessed in one of three ways: by a full scan, by using portions of existing indexes, or by creating a new dynamic index. However, there is simply no mention of marking a second set of columns as categorized and sorted before they are actually categorized and sorted, as recited in the claimed invention. Therefore, Shakib and Yoshiyama, alone or in combination, do not teach or suggest all of the features of claim 1.

In the Response to Arguments section of the outstanding Office Action, the Examiner asserts that Yoshiyama teaches the above-noted limitation "in a manner similar to the Applicant's claim language". The Examiner further asserts that "Yoshiyama teaches generating an index based on retrieval conditions. The retrieval conditions which are not met and not used to generate the index would correspond to a marking of a second set of columns as already sorted." Applicants disagree and submit that Yoshiyama provides absolutely no suggestion whatsoever of marking a second set of columns within a view of a database as if the second set were already sorted and categorized prior to actually sorting and categorizing the second set of columns. To the contrary, Yoshiyama merely teaches that a cost calculation is performed to determine the fastest way to access the database (para. 0059). The costs of three retrieval

techniques are calculated: (i) access made by entire scanning on all of the data in the database; (ii) access made by using an already existing index or dynamic index; and (iii) access made by creating and using a dynamic index (para. 0063). The technique that is deemed the fastest is used to actually access the database and retrieve the data in response to the query. Applicants are unclear how this disclosure of Yoshiyama is "similar to" or "corresponds to" marking a second set of columns within a view of a database as if the second set were already sorted and categorized prior to actually sorting and categorizing the second set of columns, and respectfully request that the Examiner provide further explanation or withdraw the rejection.

Moreover, even assuming *arguendo* that Yoshiyama does disclose the above-noted features, which Applicants do not concede, there is no proper motivation for modifying Shakib with such features. Shakib is directed to a method of displaying all of the data contained in a plurality of data records. The data is displayed in a categorization table that may have expanded or collapsed headings. All of the data in the data records or sort index is necessarily categorized and sorted before it can be displayed (col. 6, lines 33-35). Since Shakib is concerned with displaying all of the data, there would be no motivation to leave some of the data un-categorized and un-sorted. Therefore, there would be no motivation to mark a subset of columns categorized and sorted before they are actually categorized and sorted.

Furthermore, and contrary to the Examiner's assertion, there is no reasonable expectation of success that modifying Shakib with such features would "speed up data retrieval" in Shakib. In fact, Shakib is not directed toward data retrieval in the same sense as Yoshiyama. Instead, Shakib is directed toward the creation and display of a

categorization table that may have expanded or collapsed headings (see FIG. 3).

Yoshiyama, on the other hand, is directed toward a database management system (DBMS) and the selective retrieval of data from a database based upon SQL statements (i.e. queries). Shakib makes no mention whatsoever of a DBMS or queries. Therefore, the motivation proffered by the Examiner is inapposite to Shakib, and there is no reasonable expectation of success of the proposed modification of Shakib.

In the Response to Arguments section of the outstanding Office Action, the Examiner merely repeats the assertion that it would have been obvious to one of ordinary skill in the art to combine the cited references to speed up data retrieval. However, the Examiner has failed to address the above-noted argument that, because Shakib is concerned with displaying all of the data, there would be no motivation to leave some of the data un-categorized and un-sorted. Moreover, the Examiner has failed to address the above-noted argument that Shakib operates differently from Yoshiyama such that there is no reasonable expectation of success of the proposed modification of Shakib. Therefore, the rejection is improper and should be withdrawn.

Applicants submit that claims 2-6 and 20-24 depend from an allowable base claim and are allowable for at least the reasons discussed above. Moreover, these claims recite additional features that further define the present invention.

Accordingly, Applicants respectfully request that the rejection over claims 1-6, 18 and 20-25 be withdrawn.

Claims 7, 10-13, and 17 in view of Shakib, Yosiyama, and Bulusu

Independent claim 7 recites, in part,

A method for optimizing performance of a non-relational database, the method comprising:

 sorting and categorizing a first set of columns within a view of the non-relational database;

 marking a second set of columns within the view as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns, the second set of columns including all columns exclusive of the first set of columns; and ...

These features are not shown or suggested by the applied references.

The Examiner asserts that Shakib teaches or suggest the elements of claim 7 except for marking a second set of columns within the view as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns, the second set of columns including all columns exclusive of the first set of columns. The Examiner is of the opinion that Yoshiyama teaches these features, and that it would have been obvious to modify Shakib by adding these features.

The Examiner further admits that Shakib and Yoshiyama do not teach or suggest the use of a non-relational database. The Examiner asserts that Bulusu teaches a non-relational database, and that it would have been obvious to further modify Shakib with a non-relational database to manipulate categorized data sets without the burdensome amount of processing time and resources.

Applicants respectfully disagree and submit that no proper combination of the applied references teaches or suggests all of the features of the claimed invention. As discussed above with respect to claim 1, neither Shakib nor Yoshiyama teach or suggest marking a second set of columns within a view of a database as if the second

set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns. Moreover, as discussed above, there is no motivation to combine Shakib and Yoshiyama, and there is no reasonable expectation of success of the proposed modification of Shakib and Yoshiyama.

Bulusu does not cure the deficiency of Shakib and Yoshiyama with respect to claim 7. That is, Bulusu does not teach or suggest marking a second set of columns within a view of a database as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns. Instead, Bulusu discloses a system and method for creating an intermediate data structure that maintains a portion of a categorized data set. The intermediate data structure is a buffer-like data structure which is used to enhance manipulations of the categorized data set and to embody the relationships between objects within the portion of the categorized data set. Essentially, the categorized data set is a grouping of hierarchically-related objects from an original data set. Each group of objects has a particular value of a property of the objects, thus providing a categorization of the objects from the original data set. However, this does not constitute marking a second set of columns within a view of a database as if the second set of columns were already sorted and categorized prior to actual sorting and categorizing of the second set of columns, as recited in claim 7. Therefore, the applied references fail to teach or suggest each and every feature of the claimed invention.

Furthermore, contrary to the Examiner's assertion, Bulusu does not teach or suggest the use of a non-relational database. Instead, Bulusu merely discloses a grouping of hierarchically-related objects from an original data set. This does not

constitute a non-relational database. As the Examiner has already admitted that Shakib and Yoshiyama do not teach or suggest a non-relational database, the applied references fail to teach or suggest every element of the claimed invention.

Moreover, there is no motivation for, and no reasonable expectation of success of, combining the use of a non-relational database with the already proposed combination of Shakib and Yoshiyama. Yoshiyama explicitly states that their invention relates to a relational database (para. 0002). Moreover, Yoshiyama discloses that the invention parses SQL statements. Those skilled in the art will recognize that SQL is a language that provides an interface to relational database systems. Therefore, a skilled artisan using the relational database methods of Yoshiyama would not be motivated to use non-relational database methods as proposed by the Examiner. Moreover, there would be no reasonable expectation of success. Therefore, the rejection is improper and should be withdrawn.

Applicants submit that claims 10-13 and 17 depend from an allowable base claim and are allowable for at least the reasons discussed above. Moreover, these claims recite additional features that further define the present invention.

Accordingly, Applicants respectfully request that the rejection over claims 7, 10-13, and 17 be withdrawn.

Claim 19 in view of Shakib, Yosiya, and Wilkes

The Examiner asserts that it would have been obvious to modify Shakib in view of Yoshiyama and further in view of Wilkes, and that the resultant combination teaches or suggests all of the elements of claim 19. Applicants respectfully disagree.

Applicants submit that claim 19 depends from an allowable base claim and is allowable for at least the reasons discussed above. More specifically, as discussed above, no proper combination of the applied references teaches or suggests marking a second subset of columns of a view of a database as categorized and sorted before the second subset of columns are actually categorized and sorted. Therefore, the applied references do not teach or suggest every element of the claimed invention.

Furthermore, as discussed above, there is no motivation to combine Shakib and Yoshiyama as proposed by the Examiner, and there is no reasonable expectation of success of the proposed combination. Therefore, the rejection is improper and should be withdrawn.

Accordingly, Applicants respectfully request that the rejection over claim 19 be withdrawn.

Claims 8-9 and 14-16 in view of Shakib, Yosiyama, Bulusu, and Wilkes

The Examiner asserts that it would have been obvious to modify Shakib in view of Yoshiyama, Bulusu, and further in view of Wilkes, and that the resultant combination teaches or suggests all of the elements of claims 8-9 and 14-16. Applicants respectfully disagree.

Applicants submit that claims 8-9 and 14-16 depend from an allowable base claim and are allowable for at least the reasons discussed above. More specifically, as discussed above, no proper combination of the applied references teaches or suggests marking a second subset of columns of a view of a database as categorized and sorted

before the second subset of columns are actually categorized and sorted. Therefore, the applied references do not teach or suggest every element of the claimed invention.

Furthermore, as discussed above, there is no motivation to combine Shakib and Yoshiyama as proposed by the Examiner, and there is no reasonable expectation of success of the proposed combination. Even further, there is no motivation to combine Shakib, Yoshiyama, and Bulusu as proposed by the Examiner, and there is no reasonable expectation of success of the proposed combination. Therefore, the rejection is improper and should be withdrawn.

Accordingly, Applicants respectfully request that the rejection over claim 8-9 and 14-16 be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 09-0457.

Respectfully submitted,
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